

MAINE WORKERS' COMPENSATION BOARD COMPLIANCE AUDIT REPORT

July 16, 1999

Lumber Insurance Companies
1 Speen Street
P.O. Box 9165
Framingham, MA 01701-9165

Claims Covered by Audit:

1996, 1997 & 1998 Dates of Injury

Companies Covered by Audit:

Lumber Mutual Insurance
Seaco Insurance

NCCI # 16543
NCCI # 24597

Examination by:

Michael R. Nadeau, Audit Manager
Marlene Swift, Auditor

Reviewed and Approved by:

Steven Minkowsky, D.D.B.A.

The results of the audit and the procedures followed have been explained to:

Name:

Title:

Date:

Jose A. Chaves
Jeffrey A. Rainville
James Kenney

Senior Vice President
Claims Manager
Claims Manager

Various
Various
Various

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SUMMARY

The Audit Division of the Maine Workers' Compensation Board examined all claim files for the period under examination to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of indemnity payments
- Accuracy of indemnity payments

Significant deficiencies were found in the areas of form filing and timeliness of indemnity payments. The accuracy of payments was often indeterminable because of missing pre-injury wage information.

Audit Division staff provided training for all Lumber Mutual and Seaco staff (managers, adjusters, etc.) who deal with Maine Workers' Compensation claims. This training included the use of Lumber Mutual and Seaco claim files. Deficiencies and errors found in those files were identified and discussed, and instructions for corrections were provided.

During the audit process, Audit Division staff made numerous requests for information and missing forms. Most of those requests had to be repeated at least once, and some requests were never answered. (The Audit Division identified and requested more than 150 missing or incorrect forms. As of this date, no response has been received.)

Given the unfavorable findings of this audit (as illustrated on the following pages), Lumber Insurance Companies (Seaco and Lumber Mutual) are hereby instructed to develop a corrective action plan and submit it to Steven P. Minkowsky, Deputy Director of Benefits Administration, for approval no later than 30 days after issuance of the final audit report. Your corrective action plan should be designed to prevent future deficiencies. The submission and effective implementation of an effective corrective action plan may serve to reduce penalties.

Furthermore, Lumber Insurance Companies (Seaco and Lumber Mutual) will be re-audited within 12 months from the issuance date of the final audit report. The re-audit will be used to determine efficacy of the approved corrective action plan.

PENALTIES

A. Section 205(3), M.R.S.A. Penalties (payable to injured employees)

"When there is not an ongoing dispute, if weekly compensation benefits or accrued weekly benefits are not paid within 30 days after becoming due and payable, \$50 per day must be added and paid to the worker for each day over 30 days in which the benefits are not paid. Not more than \$1,500 in total may be added pursuant to this subsection. For purposes of ratemaking, daily charges paid under this subsection do not constitute elements of loss."

The following penalties are to be paid directly to the identified injured employees, and are not negotiable.

CLAIM	PENALTY JUSTIFICATION	PENALTY AMOUNT
Albert Lemon vs. Resource Trading Co. Date of Injury: 5-30-98 Seaco File #WC0005208	No NOC was filed and no payment had been made at the time of audit.	\$1,500.00
Timothy McCrater vs. VIP, Inc. Date of Injury: 3-5-98 Seaco File #2127776	No NOC was filed and no payment had been made at the time of audit.	\$1,500.00
Patricia Brochu vs. Thompsons of Maine Date of Injury: 5-27-98 Seaco File #2134596	The NOC was dated (7-14-98) forty-eight (48) days after the first day of incapacity (5-27-98).	\$200.00
Jason Harrington vs. VIP Date of Injury: 2-17-98 Seaco File #WCB1998S0004251	The NOC was dated (4-27-99) two hundred seventy-nine days after the employer was notified of a claim for compensation (7-22-98).	\$1,500.00
Shawn Donovan vs. Great Brook Lumber Date of Injury: 3-18-97 Lumber Mutual File #2113288	The initial indemnity check was issued (6-12-97) eighty-five (85) days after the first day of incapacity (3-19-97).	\$1,500.00
Wayne Mills vs. Moulton Lumber Co. Date of Injury: 1-24-97 Lumber Mutual File #2120434	The initial indemnity check was issued (10-27-97) fifty-five (55) days after the first day of incapacity (9-2-97).	\$550.00
Total Penalties to Injured Employees		\$6,750.00

PENALTIES (Continued)

B. Potential Penalties (payable to the Workers' Compensation Board)

VIOLATIONS	POTENTIAL PENALTY AMOUNT
◆ Section 359(2) Questionable claims-handling techniques.	\$10,000.00
In addition to imposing the civil penalties provided by this section, the Board is required to "...certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt."	
◆ Section 360(1)(A) Forms not filed:	
➤ One hundred fifty-nine (159) forms not filed times \$100.00	\$15,900.00
In addition to the aforementioned forms, the following claims were found to be subject to the requirements of Rules 1.7, 4.7(2) and 8.13. A letter of denial was sent to the medical provider involved in each claim, but no Notice of Controversy (WCB-9) and/or Employer's First Report of Occupational Injury or Disease (WCB-1) was filed.	
➤ Jeremy Lucas	DOS: 11-25-97 \$200.00
➤ Dean Hazelton	DOS: 06-03-98 \$200.00
➤ William Thorne	DOS: 03-17-98 \$200.00
➤ Bryan Jillette	DOS: 07-22-98 \$200.00
➤ Victor Hustus	DOS: 08-24-98 \$200.00
➤ Melvin Libby	DOS: 10-28-97 \$200.00
➤ Wayne Mills	DOS: 12-30-96 \$200.00
◆ Section 360(1)(B) Forms not filed timely:	
➤ Employer's First Report of Occupational Injury or Disease, WCB-1 (§303)	32 x \$100.00 \$3,200.00
➤ Wage Statement, WCB-2 (§205.8)	19 x \$100.00 \$1,900.00
➤ Memorandum of Payment, WCB-3 (Rule 1.1)	18 x \$100.00 \$1,800.00
➤ Statement of Compensation Paid, WCB-11 (Rule 8.1)	23 x \$100.00 \$2,300.00
◆ Section 360(2) Willful violation of the Act.	\$10,000.00
Total Potential Penalties	\$46,500.00

INDEMNITY BENEFITS

A. Prompt Initial Payment of Benefits

1998

			Number	Percent
Check Mailed Within:				
0-14	Days	Compliant	1	7%
15-28	Days		4	29%
29+	Days		3	21.5%
Salary Continuation			1	7%
Unknown			2	14%
Not Paid			3	21.5%
Total Due			14	100%

1997

			Number	Percent
Check Mailed Within:				
0-14	Days	Compliant	1	10%
15-28	Days		4	40%
29+	Days		3	30%
Salary Continuation			0	0%
Unknown			2	20%
Not Paid			0	0%
Total Due			10	100%

1996

			Number	Percent
Check Mailed Within:				
0-14	Days	Compliant	1	12.5%
15-28	Days		4	50.0%
29+	Days		0	0%
Salary Continuation			0	0%
Unknown			2	25.0%
Not Paid			1	12.5%
Total Due			8	100.0%

INDEMNITY BENEFITS (Continued)

B. Prompt Subsequent Payment of Benefits

1998

In addition to the following information, the payment history for one claim was not provided (subsequent payments could not be counted or measured) and one claim was paid by the employer (salary continuation).

			Number	Percent
Check Mailed:				
0-7	Days	Compliant	55	70%
8-14	Days		10	13%
15+	Days		8	10%
Unknown			6	7%
Total Due			79	100%

1997

In addition to the following information, the payment history for one claim was not provided (subsequent payments could not be counted or measured).

			Number	Percent
Check Mailed:				
0-7	Days	Compliant	84	70%
8-14	Days		13	11%
15+	Days		11	9%
Unknown			12	10%
Total Due			120	100%

1996

In addition to the following information, the payment history for one claim was not provided (subsequent payments could not be counted or measured).

			Number	Percent
Check Mailed:				
0-7	Days	Compliant	16	67%
8-14	Days		6	25%
15+	Days		2	8%
Unknown			0	0%
Total Due			24	100%

INDEMNITY BENEFITS (Continued)

C. Accuracy of Average Weekly Wage

1998

	Number	Percent
Calculated:		
OK Compliant	4	27%
Wrong	0	0%
Unknown	11	73%
Total	15	100%

1997

	Number	Percent
Calculated:		
OK Compliant	3	27%
Wrong	0	0%
Unknown	8	73%
Total	11	100%

1996

	Number	Percent
Calculated:		
OK Compliant	2	29%
Wrong	0	0%
Unknown	5	71%
Total	7	100%

INDEMNITY BENEFITS (Continued)

D. Accuracy of Weekly Benefit Rate

1998

	Number	Percent
Calculated:		
OK Compliant	3	20%
Wrong	0	0%
Unknown	12	80%
Total	15	100%

1997

	Number	Percent
Calculated:		
OK Compliant	3	27%
Wrong	0	0%
Unknown	8	73%
Total	11	100%

1996

	Number	Percent
Calculated:		
OK Compliant	2	29%
Wrong	0	0%
Unknown	5	71%
Total	7	100%

CASE MANAGEMENT TECHNIQUES

A. Reporting Injuries

1998	Total Claims	Number	Percent
Reported to WCB	Compliant	35	67%
Not reported to WCB		17	33%
Total Reportable Claims		52	100%

1997	Total Claims	Number	Percent
Reported to WCB	Compliant	33	80%
Not reported to WCB		8	20%
Total Reportable Claims		41	100%

1996	Total Claims	Number	Percent
Reported to WCB	Compliant	13	65%
Not reported to WCB		7	35%
Total Reportable Claims		20	100%

FORM FILING

A. Wage Statement (WCB-2)

Three of the eleven claims shown as "Not Filed" in 1998 had indemnity due, but unpaid, at the time of audit. Those three forms were not in violation of §205(8).

1998

	Number	Percent
Received at the Board:		
Filed Compliant	4	27%
Not Filed	11	73%
Total	15	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	4	36%
Not Filed	7	64%
Total	11	100%

1996

	Number	Percent
Received at the Board:		
Filed Compliant	2	40%
Not Filed	3	60%
Total	5	100%

FORM FILING (Continued)

B. Memorandum of Payment (WCB-3)

1998

	Number	Percent
Received at the Board:		
Filed Compliant	5	33%
Not Filed	10	67%
Total	15	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	5	45%
Not Filed	6	55%
Total	11	100%

1996

	Number	Percent
Received at the Board:		
Filed Days Compliant	3	60%
Not Filed	2	40%
Total	5	100%

FORM FILING (Continued)

C. Discontinuance or Modification (WCB-4)

1998

	Number	Percent
Received at the Board:		
Filed Compliant	2	20%
Not Filed	8	80%
Total	10	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	3	30%
Not Filed	7	70%
Total	10	100%

1996

	Number	Percent
Received at the Board:		
Filed Compliant	2	40%
Not Filed	3	60%
Total	5	100%

FORM FILING (Continued)

D. Certificate of Discontinuance or Reduction of Compensation (WCB-8)

1998

	Number	Percent
Received at the Board:		
Filed Compliant	1	100%
Not Filed	0	0%
Total	1	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	0	
Not Filed	0	
Total	0	

1996

	Number	Percent
Received at the Board:		
Filed Compliant	0	
Not Filed	0	
Total	0	

FORM FILING (Continued)

E. Notice of Controversy (WCB-9)

1998

	Number	Percent
Received at the Board:		
Filed Compliant	3	43%
Filed Late	3	43%
Not Filed	1	14%
Total	7	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	2	67%
Filed Late	0	0%
Not Filed	1	33%
Total	3	100%

1996

	Number	Percent
Received at the Board:		
Filed Compliant	1	50%
Filed Late	1	50%
Not Filed	0	0%
Total	2	100%

FORM FILING (Continued)

F. Statement of Compensation Paid (WCB-11)

1998

	Number	Percent
Received at the Board:		
Filed Compliant	0	0%
Not Filed	11	100%
Total	11	100%

1997

	Number	Percent
Received at the Board:		
Filed Compliant	2	18%
Not Filed	9	82%
Total	11	100%

1996

	Number	Percent
Received at the Board:		
Filed Compliant	2	40%
Not Filed	3	60%
Total	5	100%